

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4274 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

ARJUN RAMCHANDRA PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner

MR HH PATEL, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 26/11/1999

ORAL JUDGEMENT

1. The petitioner came to be detained by an order passed by the Commissioner of Police, Vadodara city, Vadodara on 1st March 1999 in exercise of powers u/s 3[1] of the Gujarat Prevention of Anti Social Activities Act, 1985 [hereinafter referred to as 'the PASA Act' for short]. The detaining authority considered two offences registered against the detainee and also considered the statements of three witnesses in respect of incidents

regarding which no offence is registered and came to a subjective satisfaction that the petitioner / detenue is a dangerous person and requires to be detained under the provisions of the PASA Act.

2. The petitioner made two representations on 14th June 1999, one which is addressed to the detaining authority and the other to the Chief Minister. In the representation, a demand was made for a medical certificate in respect of the offences [which were considered by the detaining authority] registered against the petitioner.

3. The detenue / petitioner has approached this Court with this petition for setting aside the order of detention on various grounds. One of the grounds is that the petitioner is not supplied the most important relevant material and vital document i.e. medical certificates in connection with Cr.R. No. 6/97 and Cr.R. No. 398/98 and therefore, he could not make an effective representation to the State Government. Continued detention of the petitioner is, therefore, illegal.

4. None of the respondents have filed any affidavit in reply.

5. Ms. Kachhwah, learned advocate appearing for the petitioner has pressed into service the above ground alone and submitted that the petition may be allowed and the order of detention may be quashed and set aside.

6. Mr. Patel, learned AGP appearing for the respondents submitted that factually medical certificates have not been supplied to the petitioner although demanded in the representation. The representation was sent to the Government on 17th June 1999 which was received by the Government on 24th June 1999 and was rejected on 25th June 1999.

7. On the ground of non-supply of relevant documents, though demanded by the detenue, the petition deserves to be allowed. It is a settled proposition of law that if relevant documents are not supplied to the detenue, it amounts to infringement of right of the detenue of making an effective representation enshrined under Article 22[5] of the Constitution of India. This being so, the continued detention of the petitioner would be rendered illegal. This proposition is settled in case of M. Ahmedkutty v/s Union of India & ors. as reported in 1990 [2] SCC 1.

8. The petition is therefore allowed. The impugned order of detention passed by the Commissioner of Police, Vadodara city, Vadodara, on 1st March 1999, in respect of petitioner - detenue - Arjun Ramchandra Patel, is hereby quashed and set aside. The petitioner be set at liberty forthwith, if not required, in any other case. Rule is made absolute accordingly with no orders as to costs.

[A.L.DAVE, J.]

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